BILL NO. S-87-09-01

ORDINANCE NO. S-242-87

ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE
TO ISSUE ITS "LIMITED OBLIGATION ECONOMIC DEVELOPMENT
REVENUE BOND (CADILLAC NEW LIMITED PARTNERSHIP PROJECT)"
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Fort Wayne Economic Development Commission has rendered its Project Report for the Cadillac New Limited Partnership Project regarding the financing of proposed economic development facilities for the Project and the Fort Wayne Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") on September 17, 1987, and also adopted a resolution on September 17, 1987, which resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Cadillac New Limited Partnership and Cadillac Coffee Company complies with the purposes and provision of I.C. 36-7-11.9 and 12 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Indenture, Loan Agreement, Mortgage, Assignment of Leases and Security Agreement, Note, Bond Purchase Contract, Guaranty, Assignment of Mortgage, Assignment of Leases and Security Agreement, Security Agreement and form of Ordinance (collectively, the "Financing Agreement"); now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Fort Wayne Economic Development Commission and presented to this Common Council, the issuance and sale of revenue bonds, the loan of the proceeds of the revenue bonds to Cadillac New Limited Partnership and Cadillac Coffee Company for the acquisition and construction of such facilities and the equipping thereof, and the payment of the revenue bonds by the payments of Cadillac New Limited Partnership and Cadillac Coffee Company under the Loan Agreement comply with the purposes and provision of I.C. 36-7-11.9 and 12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The economic development facilities will consist of the acquisition of real estate and construction of an approximate 45,000 sq. ft. building for use as a coffee bean roasting facility and the acquisition of coffee bean roasting machinery and equipment to be located on Lot 5 of the Summit Park, Fort Wayne, Indiana (the "Project").

SECTION 3. At the public hearing held by the Fort Wayne Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in the City of Fort Wayne, and found, based on special finds of fact set forth in the Resolution transmitted herewith, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in the City of Fort Wayne, and the facilities will be of benefit to the health and welfare of the citizens of the City of Fort Wayne.

SECTION 4. The substantially final forms of the Indenture, Loan Agreement, Mortgage, Assignment of Leases and Security

Agreement, Note, Bond Purchase Contract, Guaranty, Assignment of Mortgage, Assignment of Leases and Security Agreement, Security Agreement and form of Ordinance, approved by the Fort Wayne Economic Development Commission are hereby approved and each shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provision of I.C. 36-1-5-4, two (2) copies of each of said documents are on file in the office of the Clerk for public inspection.

SECTION 5. The City of Fort Wayne shall issue its Limited Obligation Economic Development Revenue Bond (Cadillac New Limited Partnership Project) in the total principal amount of One Million Five Hundred Thousand Dollars ($1,500,000) and maturing September 1, 1997. Said bond is to be issued for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development facilities as more particularly set out in the Loan Agreement, Indenture, Mortgage, Assignment of Leases and Security Agreement, Note and Security Agreement incorporated herein by reference, which bond will be payable as to principal, premium, if any, and interest from the payments made by Cadillac New Limited Partnership and Cadillac Coffee Company or as otherwise provided for under the Loan Agreement, Indenture, Mortgage, Assignment of Leases and Security Agreement, Note and Security Agreement. The bond shall be issued in fully registered form in the initial denomination of $1,500,000 and subject to amortization as set forth in the Indenture. The bond shall be redeemable as provided in Section 203 of the Indenture. Payments of principal, premium, if any, and interest are payable at the principal office of the Depositary in lawful money of the United States of America. The bond shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, nor is the bond payable in any manner from revenues raised by taxation. The

City of Fort Wayne hereby elects to have the provisions of the $10,000,000 limit of Section 144(a)(4) of the Code apply to its issuance of the bond.

SECTION 6. The Mayor and Clerk are authorized and directed to sell such bond to the purchaser thereof at a price of not less than 100% of the principal amount thereof. The bond shall bear interest from and after the date of delivery to the purchaser thereof (the "Issue Date") at 8-1/2% per annum, plus an additional four percentage points per annum for the first ninety-one days following the Issue Date, or at such other rate as provided for in the Indenture.

SECTION 7. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to these documents to be executed by the City which are approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bond authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents to be executed by the City which are approved herein which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said documents to be executed by the City are in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or amortization of the bond as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bond may be either manual or facsimile signatures. The Clerk is authorized to arrange for

delivery of such bond to the purchaser thereof, and payment for the bond will be made to the Depositary named in the Indenture and after such payment the bond will be delivered by the Depositary to the bond purchaser. The Mayor and Clerk shall execute and the Clerk shall deliver the bond to the Depositary within ninety days of adoption of this ordinance. The bond shall be dated as of September 1, 1987.

SECTION 8. The Mayor and Clerk, or either of them, as well as counsel to the City of Fort Wayne and Bond Counsel, are hereby authorized to execute and deliver such other certificates, documents, instruments and opinions and other papers as may be required in connection with the issuance of the bond, including the filing of such elections or other documents with such governmental agencies as may be necessary to insure that the bond is validly issued and that the interest thereon is exempt from gross income for purposes of federal income taxation.

SECTION 9. The provisions of this Ordinance and the Indenture securing the bond shall constitute a contract binding between the City of Fort Wayne and the holder of the City of Fort Wayne Limited Obligation Economic Development Revenue Bond (Cadillac New Limited Partnership Project), and after the issuance of said bond this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said bond or the interest thereon remains unpaid.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

_____
COUNCILMEMBER

ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
AND APPROVED AS TO FORM.

_____
John J. Wernet, Attorney for the
Economic Development Commission
Dated this 31 day of September, 1987.

APPROVED AS TO FORM AND LEGALITY.

_____
Bruce O. Boxberger, City Attorney
Dated this 31 day of September, 1987

Read the first time in full and on motion by Eisbart, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at ~~the Council Chambers, City-County Building,~~ Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATE: 9-8-87

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the ~~third~~ time in full and on motion by Bradbury, seconded by Eisbart, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
HENRY				✓	
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO	✓				

DATE: 9-22-87

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) ~~(ZONING MAP)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-242-87 on the 22nd day of September, 19 87,

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of September, 19 87, at the hour of 11:00 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23rd day of September, 19 87, at the hour of 3:00 o'clock P.M.,E.S.T.

WIN MOSES, JR., MAYOR

BILL NO. S-87-09-01

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS "LIMITED OBLIGATION ECONOMIC DEVELOPMENT REVENUE BOND (CADILLAC NEW LIMITED PARTNERSHIP PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) ~~(RESOLUTION)~~

YES		NO
	BEN A. EISBART CHAIRMAN	
	JAMES S. STIER VICE CHAIRMAN	
	CHARLES B. REDD	
	DONALD J. SCHMIDT	
	SAMUEL J. TALARICO	

CONCURRED IN 9-22-87.

SANDRA E. KENNEDY
CITY CLERK